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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,284	07/24/2003	Erdman O. Spradlin	M309	1463
30406	7590	01/26/2006	EXAMINER	
ROBERT L. MARSH 54 DANADA DRIVE P.O. BOX 4468 WHEATON, IL 60187-4468			BROWN, PETER R	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/626,284	SPRADLIN, ERDMAN O.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Peter R. Brown	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 24 October 2005.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-10 and 12-17 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 6-10, 12-14 and 16 is/are allowed.

6)  Claim(s) 1-5, 15 and 17 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, so far as definite, is rejected under 35 U.S.C. 102(b) as being anticipated by Koch.

Koch (figs. 1,3) discloses a gutter in which the ends thereof overlap and nest within one another. Note that the slots 13 are elongated “allowing for limited play for overlapping adjustment” (col. 2, lines 38-40). No cutting is required.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Koch in view of Andersson.

To have utilized a sealant between the ends of the overlapped gutter portions, so as to prevent leaking and provide a more secure engagement, would have been an obvious modification to one with ordinary skill in the art, as such is shown to be conventional by Andersson (fig. 6).

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Koch in view of Basista.

Basista (fig. 1) teaches the use of spaced tabs 8,9 on the end of one gutter portion which are used to releasably lock the end of a second gutter portion in nested relationship within the first gutter portion. In view of this suggestion, to

have utilized such tabs in place of or, in addition to, the wing-nut securing means of Koch, would have been an obvious modification to one with ordinary skill in the art, thereby providing a faster securing means that would eliminate the possibility of separable parts being lost or dropped, or would provide additional securement against undesired displacement between the gutter sections.

Claim 2-5 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Claims 6-10,12-14 and 16 are allowed.

Applicant's arguments filed October 24, 2005 have been fully considered but they are not persuasive.

As set forth above, the elongated slots of Koch clearly provide some limited longitudinal adjustment without cutting one end of a gutter section.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter R. Brown whose telephone number is 571-272-6853. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

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Should you have questions on access to the Private PAIR system, contact the  
Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Peter R. Brown  
Primary Examiner  
Art Unit 3636

prb